

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

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**BUILDING TRADES UNITED PENSION TRUST  
FUND and SCOTT J. REDMAN (in his capacity  
as Trustee),**

**Plaintiffs,**

**v.**

**Case No. 19-cv-1651**

**PUKALL CO., Inc.,**

**Defendant.**

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**COMPLAINT**

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**NOW COME** the Plaintiffs, by their attorneys, The Previant Law Firm, S.C., by Christopher J. Ahrens, and as and for a cause of action against the Defendant, allege and show to the Court the following:

**Jurisdiction and Venue**

1. Jurisdiction of this Court upon Defendant Pukall Co., Inc. is founded upon section 502 of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. § 1132), in that the Plaintiffs are aggrieved by the Defendant's violation of certain collective bargaining agreements, trust plans and trust agreements, and Defendant's refusal to submit contributions in accordance with the terms of those plans and agreements, thereby violating the provisions of ERISA, the Multi-Employer Pension Plan Amendments Act ("MPPAA"), the terms and provisions of the employee benefit plans, the federal common law, and the common law of the State of Wisconsin.

2. Venue lies in this Court under ERISA § 502(e)(2) (29 U.S.C. §1132(e)(2)) in that the fund is administered in Waukesha County, Wisconsin.

### **Parties**

3. Plaintiff Building Trades United Pension Trust Fund (the “Fund”) is an employee benefit plan within the meaning of ERISA §§ 3(2), (3), (37), 502, and 515 of ERISA, as amended by the MPPAA (codified as amended at 29 U.S.C. §§ 1002(2), (3), (37), 1132, and 1145), and bring this action on behalf of the trustees, participants, and beneficiaries of the Fund. The Fund maintains offices at 500 Elm Grove Road, Elm Grove, WI 53122.

4. Plaintiff Scott J. Redman is a trustee and fiduciary of the Fund, as well as a participant and beneficiary within the meaning of ERISA (29 U.S.C. § 1002, et seq.), and as such has standing to be a plaintiff in this action and to seek the remedies prayed for. Scott Redman maintains an office at 11175 West Parkland Avenue, Milwaukee, Wisconsin 53224.

5. Defendant Pukall Co., (“Pukall Co.”) Inc. is a domestic corporation organized under the laws of the State of Wisconsin, engaged in business with principal offices located at N49 W6337 Western Rd. Cedarburg, Wisconsin, 53312. Its registered agent for service of process is Donald Pukall, President., N49 W6337 Western Rd. Cedarburg, Wisconsin 53312

### **Facts**

6. Pukall Co., Inc., is an employer and party in interest in an industry affecting commerce within the meaning of §§ 3(5), (11), (12), and (14) of ERISA (29 U.S.C. §§ 1002(5), (11), (12), and (14)).

7. For all times relevant, Pukall Co., Inc. was a party to and agreed to abide by the terms of one or more collective bargaining agreements (hereinafter referred to as “Labor Agreements”) between itself and International Union Of Bricklayers and Allied Craftworkers, Local 8, District Council of Wisconsin (hereinafter the “Union”).

8. The Labor Agreements described herein contain provisions whereby Pukall Co., agreed to make timely payments to the Plaintiffs’ trust funds for each employee covered by said Labor Agreements.

9. By execution of said Labor Agreements, Defendant adopted the trust agreements and amendments thereof, which establish and govern the Plaintiff and are necessary for their administration, and designated as its representatives on the Board of Trustees such Trustees as have been named and appointed pursuant to said trust agreement, together with their successors selected in the manner provided in such trust agreements, and thereby ratifying all actions already taken or to be taken within the scope of their authority.

10. By virtue of executing the Labor Agreements and adopting and assenting to all the terms and provisions of the trust agreements, and the rules and regulations heretofore and hereafter adopted by the Trustees of said trust funds, Pukall Co., Inc. has agreed as follows:

- a. to file monthly reports and make timely and prompt contributions to the Plaintiffs for each employee covered by the aforementioned Labor Agreements;
- b. to designate, and accept as its representatives, the Trustees named in the declaration of trust and their successors;
- c. to adopt and abide by all of the rules and regulations adopted by the Trustees of the Plaintiffs pursuant to the trust agreements;
- d. to adopt and abide by all of the actions of the Trustees in administering the Plaintiffs in accordance with the trust agreements and the rules so adopted; and
- e. to pay, in addition to all of the contributions which are due and owing, liquidated damages and interest relative to delinquent contributions; and
- f. to pay, in addition to contributions, liquidated damages, and interest, all actual attorney fees, audit fees, court costs, and service fees, should legal action be necessary to obtain delinquent contributions, interest, and liquidated damages.

11. Pukall Co., Inc. has failed to perform its obligations pursuant to the terms and conditions of the Labor Agreements and trust agreements by, although not necessarily limited to, failing to make prompt payments to the Plaintiffs as required by the Labor Agreements and trust agreements for all of Pukall Co., Inc.'s covered employees.

12. ERISA § 515 provides:

Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or agreement.

13. Despite demands that Pukall Co., Inc, perform its statutory and contractual obligations, the Plaintiffs have ascertained that said Defendant has failed, neglected, omitted, and refused to make timely payments. Pukall Co., Inc. is now indebted to the Plaintiffs as follows:

Audit Period January 1, 2018 through December 31, 2018

Building Trades United Pension Trust Fund	\$6,548.01
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**Claim One Against Jaramillo Contractors, Inc.**  
**Violation of ERISA § 515 (29 U.S.C. § 515)**

14. As and for a first claim for relief against Pukall Co., Inc., Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 13 above and incorporate the same as though fully set forth herein word for word.

15. Due demand has been made by the Fund upon Pukall Co., Inc. for payment of all sums due and owing, but said Defendant has refused to pay them, or any part thereof, and all amounts remain due and owing.

16. Because, as the Fund is informed and believes, Pukall Co., Inc. has not made timely and prompt contributions on behalf of all covered employees, the corpus of the Fund's trust funds are reduced, the Fund's income is reduced, and its ability to pay benefits to qualified participants and beneficiaries is curtailed. Consequently, ERISA

and the Fund's employee benefit plan have been violated, and the Fund is entitled to all of the remedies provided by ERISA.

17. Because Pukall Co., Inc. has failed to make timely and prompt contributions, some of the Fund's beneficiaries and participants could have eligibility terminated and benefits reduced for which they would otherwise qualify. These beneficiaries and participants would be left without an adequate remedy at law and would suffer severe and irreparable harm if said Defendant is not mandatorily compelled to comply with the Labor Agreement and enjoined from further breaches.

**WHEREFORE**, Plaintiffs demand the following relief:

1. Judgment on behalf of the Fund and against Uni-Pump, Inc.:
  - A. For \$6,548.01, representing interest and liquidated damages for the time period January 1, 2018 through December 31, 2018.
  - B. Actual attorney fees and the costs of this action.
2. For such other, further, or different relief as the Court deems just and proper.

Dated this 8<sup>th</sup> day of November 2019.

s/Christopher J. Ahrens  
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